IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 18946 of 2005

To

SPECIAL CIVIL APPLICATION No. 18950 of 2005

With

SPECIAL CIVIL APPLICATION No. 18968 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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BHAGWANTSINHJI CHARITABLE TRUST - Petitioner(s)

Versus

SAURASTHRA UNIVERSITY - Respondent(s)

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Appearance :

MR MITUL K SHELAT for Petitioner(s) : 1,

MR AR THACKER for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 05/10/2005

ORAL JUDGMENT

1.0 The petitioner - Trusts have prayed for an order to hold the action of the respondent University in not allotting students to the petitioner - Colleges as

illegal despite their having obtained recognition from the National Council for Teacher Education (for short, “the N.C.T.E “) and approval from the State Government and further to quash and set aside the report / decision of the University dated 14.09.2005.

2.0 The petitioners are Public Charitable Trusts registered under the provisions of the Bombay Public Trusts Act, 1950. Section 14 of the National Council for Teacher Education Act, 1993 provides for the grant of recognition to an Institution.

2.1 As per the provisions of the said Section, the petitioners submitted their applications to the respondent University for the grant of affiliation, No Objection Certificate from the State Government and for the grant of recognition to the N.C.T.E for starting B.Ed. Colleges from the Academic Year 2004 - 2005.

2.2 Pursuant to the above, the respondent University granted N.O.C dated 06.11.2003 to the petitioners. However, the State Government vide communication dated 19.01.2004 rejected the applications of the petitioners for the grant of N.O.C.

2.3 Again for the Academic Year 2005 – 2006, the petitioners applied and obtained N.O.C for starting B.Ed. Colleges from the respondent University. Thereafter, the petitioner again applied to the State Government for grant of N.O.C. The State Government, however, vide communication dated 20.01.2005 refused to grant N.O.C to the petitioners.

2.4 Being aggrieved by the said action, the petitioners approached this Court by way of writ petitions. The said petitions came to be allowed by this Court by holding that the decision of the State Government / University was not conclusive and binding upon the N.C.T.E and that it is the Council which has to take the ultimate decision, after considering the views of the State Government in respect of N.O.C.

2.5 Thereafter, the N.C.T.E undertook an inspection of the premises of the petitioners and vide decision dated 27.06.2005 granted recognition to the B.Ed. Course to be run by the petitioners' Colleges. Upon receipt of the said communication, the petitioners approached the respondent University requesting to grant affiliation and

to allot students for the Academic Year 2005 – 2006.

2.6 The State Government vide communication dated 09.06.2005 informed the respondent University that seats would be allotted only in respect of those colleges to whom N.O.C had been granted by the State Government. On the basis of the said communication, respondent University did not allot students to the petitioners' Colleges. Hence, these petitions.

3.0 Mr. M. K. Shelat learned counsel appearing for the petitioner – Trusts has submitted that the respondent University was applying inconsistent and discriminatory norms as regards the allotment of students to the petitioners' Colleges. He has submitted that it has been the consistent practice of the respondent University to grant admissions at the fag end of the Academic Year.

3.1 Mr. Shelat has submitted that there are still thousands of students who have not been offered admissions in the current Academic Year and that they can be offered admissions in the petitioners' Colleges by operating the old lists of students. Learned counsel has further contended that the petitioners have invested huge

amounts for the grant of affiliation and that on account of delay on the part of the State Government in not granting N.O.C at the relevant point of time, the petitioner Colleges are suffering huge losses.

3.2 Mr. Shelat has contended that if the petitioner Colleges are allotted students then it would undertake to complete the whole curriculum within the stipulated period. Learned counsel has submitted that if the respondent University is not in a position to allot students, the petitioners are ready and willing to undertake the exercise independently at their own costs and undertake to complete the admission procedure within a period of 10 days or any such period as may be prescribed by the University or by withholding holidays and by working 6 days a week. Learned counsel, has, therefore submitted that this is a fit case where this Court may exercise discretionary relief in favour of the petitioners.

4.0 I have heard learned counsel for the parties and perused the documents placed on record. Pursuant to the Notice issued by this Court, respondent University has filed its reply. In the said affidavit-in-reply, it has

been specifically stated that in view of the Report dated 14.09.2005 submitted by the Committee constituted by the respondent University for considering the case of the petitioners, it is not possible to allot students for the Academic Year 2005 – 2006 and that for the next Academic Year, appropriate action would be taken.

4.1 It has been further stated therein that the study for B.Ed. Courses are on Semester basis and that the examinations are being conducted Semester wise and results are declared accordingly. It is further stated therein that the Joint Admission Committee constituted by the respondent University made allotment of students to 36 colleges out of 37 colleges before 16.06.2005 and that all these 36 colleges have started their term with full strength of students allotted by the said Committee and only in case of one college, on account of late admissions, admissions were given up to 30.08.2005.

4.2 Since the Joint Admission Committee constituted by the respondent University has already allotted students to the respective colleges before 16.06.2005 and only in case of one college up to 30.08.2005 on account of late admissions, it would not be appropriate for this

Court to issue any direction which may disturb the entire procedure of allotment of students to various colleges, more particularly, when the course for the current Academic Year has already commenced. Even if students are alloted at this moment, the respondent University would be required to take two different examinations for the same semester and the sequence of taking two examinations in respect of the same semester would go on till all semesters are completed. Moreover, allotment of students in the current Academic Year would result into great administrative difficulties for the respondent University.

5.1 So far as the contention of delay in granting N.O.C is concerned, it is to be noted that these are all academic norms which are fixed by the Universities. In the case of ***M/s. Girdhari Lal & Sons v. Balbir Nath Mathur and others reported in A.I.R. 1986 S.C. pg. 1499***, it has been held that Court must so interpret statute as to promote the object and purpose of enactment and the Court may even depart from normal rule that plain words should be interpreted according to their plain meaning to achieve the aforesaid purpose. Para 7 of the said decision is relevant for the purpose of the present case

which reads as under;

> “7. Parliamentary intention may be gathered from several sources. First, of course, it must be gathered from the statute itself, next from the preamble to the statute, next from the Statement of Objects and Reasons, thereafter from Parliamentary debates, reports of Committees and Commissions which preceded the legislation and finally from all legitimate and admissible sources from where there may be light. Regard must be had to legislative history too.”

In the present case, the exercise of discretionary relief in favour of the petitioners may result into disturbing the established academic standards. The Court cannot issue such directions which may obliterate the object and purpose of the enactment.

5.2 Exercising discretionary relief in favour of the petitioners may result into compromising the academic standards fixed by the N.C.T.E. While laying down the academic standards, the Academicians take into consideration several factors which include the mental as well as the physical capacity of the students in tuning themselves to a particular course.

5.3 By increasing the number of working hours or by reducing the number of holidays, great stress would be put on the students and they would not be able to

properly cope up with the subjects. It may result into poor academic results of the students also.

5.4 By issuing such directions, the Court might not only extend its jurisdiction by compromising the prescribed academic standards, but would also be putting great mental as well as physical stress on the students pursuing the said course.

5.5 Hence, the contention raised by the learned advocate for the petitioners that the petitioner Colleges can complete the course within the said period is not feasible. Completion of the course is not the only requirement and emphasis is also to be given on regular training in a phased manner. In that view of matter, I find no reason to interfere in these petitions and they deserve to be dismissed.

5.6 The course in question being of Teachers training, the same requires serious consideration inasmuch as if the foundation of the students who pass out as Teachers are weak, it will affect the educational system of the next generation. No compromise should be made by the Universities or even by the Courts in that

regard. Hence, equity cannot be said to be in favour of the petitioners merely because they have invested huge amounts and have got recognition / N.O.C from the competent authorities. For example, if in construction of a building appropriate time is not given for the settling of the cement mix and proper care is not taken, the whole structure will become weak. Similarly, Colleges are required to complete the curriculum during an Academic Year in a phased manner and not at a stretch. The completion of a Course in lesser time than the time prescribed, may affect the foundation of the students pursuing the said Course. It should be kept in mind that the syllabus for the respective Courses are prescribed by all India standards. Hence, I am of the view that the Court should not issue such directions which may affect the prescribed academic standards.

6.0 For the foregoing reasons, the petitions are dismissed. Notice is discharged. No order as to costs. However, it is observed that the case of the petitioners shall be considered on merits and in accordance with law for the next Academic Year.

(K. S. JHAVERI, J.)

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